

SIKKIM



GOVERNMENT

GAZETTE

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No. 320

**GOVERNMENT OF SIKKIM
DEPARTMENT OF COMMERCE AND INDUSTRIES**

No. 2/C&I/2019-20

Dated: July, the 23rd, 2019

NOTIFICATION

In exercise of the powers conferred by section 16 read with section 4 of the Sikkim Industries Licensing Act, 1982 (1 of 1983), the State Government hereby makes the following Rules, namely:-

**Short title and
Commencement**

1. (1) These rules may be called the Sikkim Industries Licensing Rules, 2019.
- (2) They shall extend to the whole of Sikkim.
- (3) They shall come into force on the date of their publication in the Official Gazette.

Definition

2. (1) In these rules, unless the context otherwise requires:-
 - (a) "Act" means the Sikkim Industries Licensing Act, 1982;
 - (b) "applicant" means any person who represents an industrial unit or corporate and acts on its behalf to obtain an industrial licence under these rules;
 - (c) "Director" means an officer designated as the Director of Industries;
 - (d) "form" means any form appended to these rules;
 - (e) "Government" means the State Government of Sikkim;
 - (f) "industrial activity" includes any manufacturing process or manufactured product;
 - (g) "licensee" means a person or corporate or industrial unit which has been granted a licence under these rules;

(h) "Memorandum of Agreement" means a document to be signed by the applicant and a representative of the Government where the conditions and liabilities to be adhered to by the applicant are set out and agreed to by both the signatories;

(i) "State" means the State of Sikkim.

(2) Words and expressions used in these rules and not defined but defined in the Act, shall have the same meaning as respectively assigned to them in the Act.

Persons to apply for consent to establish industrial unit

3. Any person who wishes to set up an industrial unit in Sikkim shall apply in Form A (application form for issue of "consent to establish") together with the documents mentioned in the form to the Director Industries who shall issue letter of consent to establish in Form B, if the application and documents are found to be complete.

Persons to apply for industrial licence

4. An application for grant of industrial licence under the Act shall be made in Form C to the Director together with the documentation as specified in the form on payment of such fee as specified under section 4 of the Act or such fees as may be notified by the State Government from time to time.

Scrutiny of the application by Director

5. The Director on receipt of the application mentioned in rule 4, shall scrutinize the same to establish that the details of the industry for which the licence is sought are true and shall issue a Licence in Form D:

Provided that the Director or his subordinate officers may inspect the premises of the industry concerned and call for any documents before taking any decision on the application submitted.

Applicant to execute a Memorandum of Agreement

6. After the scrutiny of application which shall be completed within 30 (thirty) days of receipt of the application, if it is found that all required documents have been appended along with the fees as prescribed, the applicant shall execute a "Memorandum of Agreement" in the format as prescribed at Annexure I.

Government approval to be obtained

7. After the "Memorandum of Agreement" is executed between the applicant and the Government, the Director shall forward the application and the Memorandum of Agreement to the Government for according approval, to issue a licence to the applicant:

Provided that the Director may reject or return the application within 30 (thirty) days, duly recording his reasons in writing, if in his opinion the applicant has not completed the application with regard to the information provided or documents to be attached or fees to be paid or he is otherwise not eligible to set up an industry in the State.

Provided further that the applicant may resubmit the application within 30 (thirty) days after completing or rectifying it as per the process as specified in rule 4.

**Director to issue
licence**

8. After obtaining the approval of the Government, the Director shall issue a licence to the applicant in Form D.

Provided that if the licensee wishes to change the scope of his industrial activity he may apply for a fresh licence as provided in rule 4.

**Conditions of
licence**

9. The Licensee shall fulfil all the conditions as provided in sub-sections (2) and (3) of section 3 of the Act and the conditions listed in the Memorandum of Agreement to be executed under rule 6:

Provided that the Government may impose any conditions or vary any conditions that it deems fit in the public interest at any time during the operation of the licence and the licensee shall be obliged to comply with them and a modified licence in Form E shall be issued for the remaining period of validity of the original licence issued in Form D after following the process as mentioned in rule 6.

Renewal of licence

10. If a licensee wishes to renew his licence on expiry of the validity of the licence issued to him under rule 8, he shall submit an application in Form C on payment of fee as specified under section 5 of the Act or such fees as may be notified by the State Government from time to time.

**Penalty for
violation of the
Rules**

11. Violation of any of the provisions of these rules shall be construed as violation of the Act and the offender shall be liable to be penalized as provided under section 15 of the Act:

Provided that the Licensing Authority may suspend or revoke the licence as provided in sub-section (3) of section 6 of the Act in Form F or Form G respectively after a show cause notice is issued to the holder of License in Form H and on consideration of explanation tendered, by a High Level Committee consisting of the Chief Secretary, Development Commissioner and Secretary of Commerce and Industries Department:

Provided further that the said committee shall decide either for suspension or revocation of licence having regard to the seriousness of the offence and obtain Government approval for the same.

Saving

12. All Memorandums of Agreement, Memorandums of Understanding, directions or orders relating to functioning of industries made or issued prior to commencement of these rules shall be deemed to have been made or issued under these rules and action for non-compliance of the same shall be taken under these rules.

**DR. THOMAS CHANDY
ADDITIONAL CHIEF SECRETARY
COMMERCE AND INDUSTRIES DEPARTMENT**

FORM-A
(see rule 3)

To,

The Director of Industries
Commerce and Industries Department
Government of Sikkim

APPLICATION FORM FOR ISSUE OF CONSENT TO ESTABLISH

1. Name of the applicant:
2. Name of the industrial unit:
3. Address of location of the unit:
4. Name of the Director(s):
5. Address of the Corporate/ Head Office:
6. Board of Director's Minutes of the Meeting (to be attached):
7. DIN:
8. CIN:
9. Solvency Certificate with Account Number (to be attached):
10. Whether registration under Companies Act, 2013 is obtained and if so:
 - (a) Registration No.
 - (b) Address of the Registrar
11. Udyog Adhar No.
12. GST No. (GST Returns of Last Year to be attached) :
13. Year of latest audited balance sheet of the Parent Company, Proprietor's/Partnership Firm (attach a copy):
14. Nature of manufactured products proposed
15. Manufacturing capacity to be installed:
16. Estimated Total Project Cost:
17. Estimated investment in Plant and Machinery:
18. Estimated investment in pollution control measures:

19. Detailed Project Report, attached or not:
20. Source of raw materials:
21. Expected consumption of power (in KWs/day):
22. Expected consumption of water (in gallons/day) and source:
23. Expected manpower requirement:
 - (a) Skilled
 - (b) Unskilled
 - (c) Managerial

Signature of the applicant
Date

DOCUMENTS TO BE ATTACHED

1. Detailed Project Report
2. Land lease document (if completed) or map of proposed land where industry is to be located
3. Copy of CA, 2013 registration document

FORM-B
(See rule 3)

LETTER FOR CONSENT TO ESTABLISH

Ref. No.....

Date.....

To,

M/s.....

Subject: Consent for setting up of

Sir/ Madam,

With reference to your Application dated, on the above subject, I am directed to convey the approval of the State Government with regard to your proposal for establishment ofat
(name of industrial estate/ growth centre/locality/ ward).

Kindly note that you shall obtain all necessary statutory clearances as may be required for setting up of, as per the existing laws in force, before setting up your Unit in the State.

Yours sincerely,

**Director,
Commerce and Industries Department
Government of Sikkim**

FORM-C
(see rule 4)

APPLICATION FORM FOR ISSUE OF INDUSTRIAL LICENCE/ RENEWAL OF LICENCE

1. Name of the applicant:
2. Name of the industrial unit:
3. Address of location of the unit:
4. Name of the Director(s):
5. Address of the Corporate/ Head Office:
6. DIN:
7. CIN:
8. Name of the Plant Head:
9. Designation of the Plant Head:
10. Whether registration under Companies Act, 2013 is obtained and if so:
 - (a) Registration No.
 - (b) Address of the Registrar
11. Udyog Adhar No.
12. Nature of manufactured products (or changed products if scope of industrial activity is to be changed):
13. Manufacturing capacity to be installed:
14. Estimated investment in P & M:
15. Estimated investment in pollution control measures:
16. Source of raw materials:
17. Expected consumption of power: (in KWs/day)
18. Expected consumption of water (in gallons/day) and source:
19. Period of validity of previous licenses (if applicable):
 - (i)
 - (ii)
 - (iii)

Signature of the applicant
Date

DOCUMENTS TO BE ATTACHED

1. Fresh Detailed Project Report if any change from original
2. Land Lease deed (if not submitted earlier)
3. Consent to operate of SPCB
4. Lease rent document (if applicable)

FORM-D
(see rule 5)

FORM FOR ISSUE OF INDUSTRIAL LICENCE/ RENEWAL OF LICENCE

Sl. No. _____

Dated, the _____

This licence is issued to..... to operate in Sikkim for a period of (10) ten years from the date of issue. The relevant details of the unit are as follows.

1. Period of validity of previous licenses:
(i)
(ii)
(iii)
2. Address of location of the unit:
3. Name of the Director(s):
4. Address of the Corporate/ Head Office:
5. DIN:
6. CIN:
7. Name of the Plant Head*:
8. Designation of the Plant Head*:
9. Registration no. under Companies Act, 2013:
10. UAM No.:
11. Nature of manufactured products:

Conditions to be complied with shall be as mentioned in the Memorandum of Agreement (MoA) appended to this licence bearing no. _____ and date _____

**DIRECTOR OF INDUSTRIES
COMMERCE AND INDUSTRIES DEPARTMENT
GOVERNMENT OF SIKKIM**

- Note:**
1. It is the responsibility of the licensee to renew the licence after its expiry
 2. The MoA as mentioned above shall form a part of this licence
 - * 3. The Licensee shall inform the name and designation of Plant Head whenever a new incumbent is appointed

FORM-E
(see rule 9)

Sl.No

Date

FORM FOR ISSUE OF MODIFIED INDUSTRIAL LICENCE

This licence is issued to in lieu of
licence no..... dated..... in pursuance of modified conditions of licence for the
period fromto..... The relevant details of the unit are as follows.

1. Period of validity of previous licenses:
(i)
(ii)
(iii)
2. Address of location of the unit:
3. Name of the Director(s):
4. Address of the Corporate/ Head Office:
5. DIN:
6. CIN:
7. Name of the Plant Head*:
8. Designation of the Plant Head*:
9. Registration no. under Companies Act, 2013:
10. UAM No.:
11. Nature of manufactured products:

Conditions to be complied with shall be as mentioned in the Memorandum of Agreement (MoA) appended to this licence bearing no. and date

**DIRECTOR OF INDUSTRIES
COMMERCE AND INDUSTRIES DEPARTMENT
GOVERNMENT OF SIKKIM**

- Note:*
1. It is the responsibility of the licensee to renew the licence after its expiry
 2. The MoA as mentioned above shall form a part of this licence
 - *3. The Licensee shall inform the name and designation of Plant Head whenever a new incumbent is appointed

FORM—F
(see rule 11)

Sl.No.

Date

FORM OF SUSPENSION ORDER OF LICENCE

To,

Name of Plant Head

.....
.....

A violation of the Sikkim Industries Licensing Act 1982 and the rules made thereunder by(name of licensee) was reported. A show cause notice under the Sikkim Industries Licensing Rules 2019 was issued to (name of licensee). The reply to the show cause notice tendered by (name of licensee) has been considered by the State Government and it has not been found to be tenable.

Therefore, in exercise of the powers under section 6 of the Sikkim Industries Licensing Act, 1982, the State Government hereby suspends the licence no. dated.....issued to(name of licensee) tilland all its operations shall cease forthwith and remain suspended till this order is in force.

DIRECTOR OF INDUSTRIES
COMMERCE AND INDUSTRIES DEPARTMENT
GOVERNMENT OF SIKKIM

FORM-G
(see rule 11)

Sl. No. _____

Dated:-

FORM OF ORDER OF REVOCATION OF LICENCE

To,

Name of Plant Head

.....
.....

A violation of the Sikkim Industries Licensing Act 1982 and the rules made thereunder by(name of licensee) was reported. A show cause notice under the Sikkim Industries Licensing Rules 2019 was issued to (name of licensee). The reply to the show cause notice tendered by (name of licensee) has been considered by the State Government and it has not been found to be tenable.

Therefore, in exercise of the powers under section 6 of the Sikkim Industries Licensing Act, 1982, the State Government hereby revokes the licence no. dated..... issued to(name of licensee) and all its operations shall cease forthwith.

DIRECTOR OF INDUSTRIES
COMMERCE AND INDUSTRIES DEPARTMENT
GOVERNMENT OF SIKKIM

FORM-H
(see rule 11)

Sl No.

Date

FORM FOR ISSUE OF SHOW CAUSE NOTICE

A violation of the Sikkim Industries Licensing Act 1982 and the rules made thereunder by(name of licensee) has been reported. The charges relating to this violation are as follows:

- 1.
- 2.
- 3.
- 4.

You are hereby directed to show why action against(name of licensee) should not be taken for the above mentioned violation/ offence within two weeks from the date of issue of this notice and reply the charges framed as above.

In the event of no reply being received in this office within the time stipulated above, suo moto action will be taken based on evidence available.

DIRECTOR OF INDUSTRIES
COMMERCE AND INDUSTRIES DEPARTMENT
GOVERNMENT OF SIKKIM

ANNEXURE I

No.

Date

MEMORANDUM OF AGREEMENT

AGREEMENT

This Memorandum of Agreement (hereinafter referred to as the "MOA") is made on this dayof (two thousand and.....) at Gangtok.

BETWEEN

the Governor of Sikkim, through the Director, Commerce & Industries Department, Government of Sikkim (hereinafter referred to as the "Government") which expression shall unless excluded by or repugnant to the context, mean and include its successors administrators and permitted assigns of the FIRST PART

AND

M/sa company incorporated under the Companies Act, having its registered office at (hereinafter referred to as the Investor/unit) which expression shall unless excluded by or repugnant to the context mean and include its successors administrators and permitted assigns through itsof the SECOND PART

(Explanation – Investor/Unit shall include Power Developers, Hotel, distilleries/ breweries, all Pharmaceutical Units and other manufacturing and production units carrying out their trade, commerce & Industry in the state of Sikkim.

WHEREAS, Investor has submitted a proposal to the Government for the establishment of manufacturing unit

AND WHEREAS, Investor has carried out the investigations of the project at its own cost and submitted the pre-feasibility report along with the Detailed Project Report to the Government;

AND WHEREAS, the Government has examined the feasibility report and proposes to grant the permission for establishment of the said Industry and other allied activities connected and ancillary thereto for carrying out the industrial activity as per Memorandum of Association/ Articles of Association and other documents as approved by the Government.

NOW THEREFORE, IT IS HEREBY AGREED by and between the parties hereto as follows:-

The following are the conditions as agreed by the Investor.

1. COMPLIANCE WITH RULES AND REGULATIONS AND LAWS IN FORCE RELATING TO THE WORKERS.

- (1) The Investor while carrying out the authorized activities shall abide by the Law, Policies/Notifications enforced/notified by the Government of Sikkim and Government of India specially relating to :

- (a) Landed properties
- (b) Labour
- (c) Gratuity to Labourers
- (d) Employment & Establishment rules
- (e) Excise Rules.
- (f) Environmental and Forest.

(2) The Investor shall also give due regard to the directives relating to :

- (a) Salaries and wages
- (b) Number of holidays
- (c) Working condition
- (d) Working hours
- (e) Safety measures
- (f) Standard benefits.

(3) In absence of any directives relating to any of the above, the Investor shall abide by the norms prescribed by the Union Government or other similar standards followed in the country.

2. LOCAL EMPLOYMENT :

Local employment shall be governed as per the existing rules, guidelines and notification of the Government.

3. POLLUTION CONTROL MEASURES :

As per the existing rules, guidelines and notification of the Government.

4. LAND MATTERS :

As per the existing rules, guidelines and notification of the Government.

5. ECO SYSTEM MEASURES :

As per the existing rules, guidelines and notification of the Government.

6. GREEN MISSION ISSUES :

As per the existing rules, guidelines and notification of the Government.

7. CORPORATE SOCIAL RESPONSIBILITY :

As per the existing rules, guidelines and notification of the Government.

8. REHABILITATION AND RESETTLEMENT PROGRAMME:

As per the existing rules, guidelines and notification of the Government.

9. TAXATION AND OTHER LEVY :

The Investor/Unit shall ensure that taxes according to the existing law/rules/regulations in force within the State of Sikkim, whether Central or State are deposited with the competent authority as per prescribed mode and procedure.

10. CLOSURE OR TRANSFERS :

The Investor/Unit shall not be permitted to transfer or sell or close its units without obtaining the prior permission of the Government to any other party.

In the event of any Industry/Unit winding up or permanently suspending its operation, it shall be the responsibility of the said Industry/Unit to adequately compensate all the temporary and permanent workers who would be affected by such suspension.

11. SUB-CONTRACTS AND BUSINESS OPPORTUNITIES.

- (1) The Investor/Unit shall give first preference in transportation of Goods for the Project to Sikkim Nationalized Transport (SNT). If the SNT is not in a position to supply the trucks then the company may use the local transporters.
- (2) The Investor/Unit shall provide business and contract opportunities to the local bonafide residents of Sikkim according to their capability and strength except the major contracts requiring special machineries and skill and supply of construction materials etc. as per the policy of the Government. Place of tendering for works such as approach road, quarters colonies, buildings shall be the industrial areas and preference shall be given to the capable local contractors so that the local people get benefits from such works of the unit. All construction works irrespective of the amount/value should be tendered on 100% basis within the State of Sikkim.
- (3) In case the unit requires raw materials in the form of vegetables, fruits, milk meat and other goods including construction materials which are locally available in the State of Sikkim then it shall be the responsibility of the unit to ensure that the entire products are procured from the local suppliers. Even otherwise if goods are required other than for use as raw materials, it may be ensured that the same is purchased locally.

12. VERIFICATION AND CHECKS AND AUDITS :

- (1) The Government may have all powers to conduct any surprise and pre-informed verification and checks on the unit in relation to all matters specified above and with respect to matters not specified above but being of relevance and importance. The Commerce and Industries and other relevant Departments of the State Government would conduct routine inspection regularly for which the unit shall extend all help and full co-operation to the concerned Departmental officials.
- (2) In relation to verification, checks and Audits where the Government would have to appoint a professional firm, the Government would appoint the necessary professional firms and the unit shall have to extend all help and cooperation to such firm to enable them to check and verify the issues.

12 A. SETTING UP OF WARE HOUSES

All Pharmaceutical units shall set up their ware houses within the State of Sikkim.

13. AMENDMENTS FROM TIME TO TIME :

With changing times, modernization of infrastructure and other allied matters, if the Government deems necessary to amend, improvise and add any clauses to this MOA, the Government reserves the right to do so. However, in the said event the Government shall provide the copy of the amended version of MOA/or the Amended clause for acceptance of the unit, which the unit shall accept.

14. NON-COMPLIANCE :

- (1) In the event of non-compliance of the above terms and conditions as agreed by the Investor, the Investor hereby agrees on the under mentioned penalties and related clauses.
- (2) An amount of penalty as deemed fit by the Government considering the nature and quantum of non-compliance.

- (3) In cases of non-compliance of serious nature, the license may be revoked and adequate compensation has to be borne by the investor to all the affected parties, namely labourers, contractors and other related persons including Government as deemed fit by the Government.
- (4) Other steps as appropriate shall be taken by the Government considering the individual nature of each case.

The following are the conditions as agreed by the Government of Sikkim.

15. (1) The Government hereby agrees to grant to the Company all consents, permissions statutory/non-statutory, within its purview, to undertake establish, operate and maintain the unit, provided however that the Investor/Unit makes diligent and complete applications for obtaining such statutory/non-statutory consents or permissions. The responsibility of obtaining approvals/ clearances shall, however, rest with the Investor/Unit for all legal and Government approved activities. The Government Department shall provide permissions/clearance as prescribed in the ease of doing business guidelines.
- (2) The Government will extend all necessary help and co-operation to the Investor/Unit and assist the Investor/Unit in obtaining the Restricted Area Permits for its employees, contractors, agents and representatives in connection with the Government approved activities of the Industrial Unit.
- (3) After the commission of the industrial unit and subject to fulfilment of terms and conditions of the Agreement by such industrial unit, the Government shall facilitate grant of eligible incentives to the unit.

16. ARBITRATION

In the event of any disputes, the same shall be settled by referring to an arbitrator to be appointed as may be mutually agreed upon by the parties under the Arbitration and Conciliation Act, 1996. The jurisdiction of arbitration shall be at Gangtok, Sikkim and the language of arbitration shall be in English

17. REGISTRATION

The agreement shall be registered with the Registrar/ Sub- Registrar, East Sikkim, Gangtok under the provision of Registration of Documents Rules, 1930. The parties to the Agreement or their authorized representatives may appear before the Registrar/Sub-Registrar for the purpose of registration.

IN WITNESS WHEREOF, the Parties hitherto have set and subscribed their respective signatures on the date month and the year first written above.

SIGNATURE AND SEAL

Authorized Signatory
For and on behalf of Investor/Unit
Name:

Director
Commerce & Industries Department
For and on behalf of Governor of Sikkim

Seal:

WITNESS

1.....
2.....